

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 12th DAY OF FEBRUARY 2007 AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Steve L. Spradlin	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	John A. Muffo	
	Annette S. Perkins (Arrived 6:30 p.m.)	
	James D. Politis	
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Vickie L. Swinney	-Secretary, Board of Supervisors
ABSENT:	Doug Marrs	-Supervisor
	B. Clayton Goodman, III	-County Administrator

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by James D. Politis, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (7) Consultation with Legal Counsel and Briefings
from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel
1. County's Technology Manufacturing Building
 2. Blacksburg/Christiansburg/VPI Water Authority
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
1. Industrial Development Authority
- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body
1. Elliston/Lafayette Elementary School Site
 2. Kipps Farm

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Doug Marrs
Mary W. Biggs		Annette S. Perkins
James D. Politis		
John A. Muffo		
Steve L. Spradlin		

Supervisor Perkins arrived at 6:30 p.m.

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Doug Marrs
Annette S. Perkins		
James D. Politis		
John A. Muffo		
Gary D. Creed		
Steve L. Spradlin		

CERTIFICATION OF CLOSED MEETING

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

Annette S. Perkins
James D. Politis
John A. Muffo
Gary D. Creed
Mary W. Biggs
Steve L. Spradlin

NAYS

None

ABSENT DURING VOTE

Doug Marrs

ABSENT DURING MEETING

Doug Marrs

Supervisor Perkins certified closed meeting for the time she was present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

DELEGATIONS

Introduction – Senator Jim Webb’s Roanoke District Office

Fred Hutchins, Legislative Aid for Senator Jim Webb, introduced himself and commented that he is located in Senator Webb’s Roanoke Office.

Route 460 Connector Corridor Study

Dan Brugh, Executive Director, Metropolitan Planning Organization, updated the Board on the Route 460 Connector Corridor Study. The MPO Technical Advisory Committee took all citizens’ comments from the last public hearing and updated the proposed routes. The amended list of routes include those that are considered to have the least impact to the environment and citizens. The majority of the responses to the citizen survey also indicated the desire for the connector to have at least two to four lanes with a multi-purpose trail.

Citizens for the Preservation of our Countryside (CPOC) – Proposed Norfolk Southern Intermodal Facility in Elliston

Richard Rittenhouse and Mickey Apgar, representing the Citizens for the Preservation of Our Countryside (CPOC), made a presentation opposing the proposed Norfolk Southern Intermodal Facility in eastern Montgomery County.

Mr. Rittenhouse read the following:

“We, the Citizens for the Preservation of Our Countryside, are here tonight to thank the Montgomery County Board of Supervisors, for steadfastly supporting us, your constituents, in opposing the siting and construction of the Inland Port, or intermodal rail yard, in eastern Montgomery County. But we are aware of the power of Norfolk Southern Corporation. Thus, we are here to present to the Board, a proposed ordinance which would re-establish the constitutionally intended balance of power, and give you, our elected representatives, a strengthened hand in deciding what happens in our county.

We have come together because we believe that the proposed location of the Inland Port, Elliston, is not suitable. We are concerned for the safety of our communities, and we are determined to preserve the rural character of our community. We know that the proposed rail yard would dramatically increase truck traffic in an already dangerous area of I-81, and would forever destroy the character of the agricultural & residential areas along US 460/11. According to figures provided by the Virginia Department of Rail & Public Transportation, on opening day in 2010 (that's only 3 years away), there would be 10-11 trucks PER HOUR in and out of the facility. And by the year 2020, they project 29 trucks per hour. What would Elliston look and sound like then? We also know that this proposed facility would not result in economic development of the sort that would truly benefit our citizens.

My name is Richard Rittenhouse, and I live in the Alleghany Springs area of Shawsville. I would not be directly affected by this proposed facility. The opposition to this proposed facility is based far wider than just its immediate back yard, and this is as it should be. We are neighbors, and we should support each other in the preservation of our communities, whether it be against poorly located Inland Ports, Mega Marts, sewage sludge application, or whatever. Preservation of our communities, our rural way of life, the safety and wellbeing of our children and elderly citizens, and the preservation of our countryside is the business of all of us, in our valley, and beyond.

The proposed ordinance which we are presenting to you tonight was drafted by the Community Environmental Legal Defense Fund, a nonprofit, public interest law firm that assists communities across the nation in protecting themselves from harmful, unwanted corporate activities. This ordinance would recognize the rights of the people, and their democratically elected leaders, by banning corporations from operating as private governments and taking private property by eminent domain.

- This proposed ordinance, drafted with the assistance of Virginia attorneys, is consistent with the US Constitution, the Virginia Constitution, the Code of Virginia, and Virginia Case law.
- The Legal Defense Fund will meet with the Montgomery County supervisors, administrator and attorney, at your convenience, to discuss the ordinance, and will assist with further drafts as necessary.
- The Legal Defense Fund will stand by the Montgomery County Board of Supervisors and this ordinance and, should the ordinance be challenged, will assist in its defense.
- Regarding Dillon's Rule: Pennsylvania and Virginia are among the 39 states that apply Dillon's Rule. In Pennsylvania, since 1990, 77 localities have enacted ordinances banning corporations from engaging in activities detrimental to the community, and not one of these ordinances have been challenged
- The issue of Norfolk Southern Corporation's plan to take private property, and site its intermodal freight station in the farmland of Eastern Montgomery County is NOT a simple land-use issue. It's about who gets to decide -the citizens of a community, or a handful of corporate officers who live elsewhere? It's a democracy issue. It's about our constitutional rights to democratic self governance. The real issue, is the ability , and the RIGHT, of local communities to determine what happens in their communities -the power of citizens and the authority of local, elected, representatives. It's about whether corporate rights, should trump the rights of citizens and their elected representatives. And it's about preserving some of what Southwest Virginia, and Eastern Montgomery County is famous for: it's way of life, it's safety, it's communities, and its countryside.
- The hundreds of citizens here tonight are here to demonstrate our support for this ordinance, and our commitment to support you, our Board of Supervisors, in your decision to preserve and protect the health and wellbeing of this community, our environment, and the character of our land.

If you adopt this ordinance, it would remove the threat of eminent domain, and encourage landowners to retain their properties, thus advancing the cause of protecting our community, and preserving our countryside. And this would, furthermore, ensure conformance with the county's Comprehensive Plan.

We have here, citizens from the many localities, which comprise our community: Elliston, Shawsville, Lafayette, and other neighbors from Montgomery County and Roanoke County. We are here to ask you to act on this ordinance, and we are here to support you, the Montgomery County Board of Supervisors, in your efforts to preserve our community. We thank you for your support.

I ask all those with me here in support of this proposed ordinance to please stand.

Mickey Apgar, an Elliston resident who lives right across the road from the proposed facility, would like to say a few words to the Board of Supervisors.”

Mickey Apgar commented that he was asked by the citizens to speak tonight to represent the people. He is not against the intermodal facility, he is opposed to the facility being located in Elliston. He urged the Board to consider the proposed ordinance submitted tonight, which will remove the threat of eminent domain.

PUBLIC HEARINGS

Citizens Telephone Cooperative – Easement Request

An Easement to Citizens Telephone Cooperative for the purpose of locating fiber optics within an existing AEP right of way that crosses the Huckleberry Trail near where the Trail intersects Merrimac Road conditioned upon the proposed easement not interfering with AEP's existing easement rights.

The County Attorney explained that Montgomery County received a request from Citizens Telephone Cooperative to cross a portion of the Huckleberry Trail on county property in order to construct fiber optics on the existing AEP poles. Citizens Telephone has a project underway to install fiber optics from Floyd to Blacksburg.

Russell Janney, Citizens Telephone, provided a brief summary of the project. Mr. Janney explained that they will be using the existing overhead AEP poles to provide the least disturbance to the trail and nearby streams rather than placing the lines underground.

There being no speakers, the public hearing was closed.

Proposed Conveyance of Easement – Circle Creek Properties

(1) **A twenty foot Storm Water Sewer Easement and existing storm sewer to the Town of Christiansburg**, located on County of Montgomery property designated as Tax Map Parcels 527-A-240, 527-A-229, adjacent to Roanoke Street in the Town of Christiansburg, Virginia.

(2) **A twenty foot private easement to Circle Creek Properties, LLC, in order to locate a private storm sewer**, located on County of Montgomery property designated as Tax Map 527-A-235C, in the Town of Christiansburg, Virginia.

The County Attorney provided a brief summary on the proposed conveyance request.

Kevin Conner, Gay & Neel Engineering, was available to answer any questions from the Board.

There being no speakers, the public hearing was closed.

PUBLIC ADDRESS

Kyle Eanes addressed the Board on several issues. Mr. Eanes requested the Board consider tearing down the old Green Hill plant and constructing a recreation facility. Mr. Eanes also commented he agreed with the comments by Mr. Rittenhouse and Mr. Apgar earlier tonight regarding the proposed NS Intermodal Facility. If this facility is constructed in Elliston, SR 603 would have to be upgraded and not at Montgomery County's expense.

David Bowers addressed the Board concerning the proposed NS Intermodal Facility. Mr. Bowers supports the Citizens for the Preservation of Our Countryside, who opposed the facility being located in Elliston. He asked why would NS put an industrial facility in a rural natural area such as Elliston? Mr. Bower strongly stated that the proposed facility should be located in Roanoke, where there is already industrial zoning and historical railroad. He believes Roanoke should put together an incentive package and offer it to Norfolk Southern because the proposed facility belongs in Roanoke.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the Consent Agenda dated February 12, 2007 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Doug Marrs
John A. Muffo		
Gary D. Creed		
Mary W. Biggs		
Annette S. Perkins		
Steve L. Spradlin		

Approval of Minutes

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the minutes dated September 25, 2006, October 9, 2006, October 23, 2006, October 30, 2006 and November 15, 2006 were approved.

**R-FY-07-114
RESOLUTION ESTABLISHING A PUBLIC HEARING
ON THE PROPOSED ORDINANCE
CHANGING THE C-1 PRECINCT POLLING PLACE
TO THE MEADOWBROOKE BRANCH PUBLIC LIBRARY**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby schedules a Public Hearing on Monday March 12, 2007, at 7:15 p.m., or as soon thereafter, at the Montgomery County Government Center, 2nd Floor Board Room, 755 Roanoke Street, Christiansburg, Virginia, in order to receive comments on the proposed Ordinance changing the C-1 Precinct Polling Place from the Shawsville Elementary School located at 4390 Riffe Street to the Meadowbrooke Branch Public Library located at 267 Alleghany Springs, Road.

**A-FY-07-80
DOMESTIC VIOLENCE VICTIM GRANT
COMMONWEALTH'S ATTORNEY**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Montgomery County Board of Supervisors that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007 for the function and in the amount as follows:

201	Commonwealth's Attorney Grants	\$40,000
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
02201-424401 Domestic Violence Victim Grant	\$40,000

Said resolution appropriates the Domestic Violence Victim Grant with the understanding that County funds will not be provided to cover these costs upon termination of the grant funds.

**A-FY-07-81
SHERIFF
RECOVERED COSTS**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

310	Sheriff – State	\$ 5,923
320	Sheriff – County	\$47,875
321	Sheriff – Grants	<u>\$30,225</u>
	Total	\$84,023

The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$48,651
419104	Confiscations	5,147
424401	State Grants	30,000
424401	Project Lifesaver	<u>225</u>
	Total	\$84,023

Said resolution appropriates recovered costs, confiscations, grants and project lifesaver funds for use by the Sheriff's department.

**A-FY-07-82
LIBRARY
APPROPRIATION ADJUSTMENT**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

710	Montgomery Library	\$34,393
720	Floyd Library	<u>\$ 9,001</u>
	Total	\$43,394

The sources of the funds for the foregoing appropriation are as follows:

451203	Undesignated Fund Balance	\$22,145
451205	Designated Fund Balance	<u>\$21,249</u>
	Total	\$43,394

Said resolution appropriates additional revenue that was collected in FY 06, but not appropriated.

**R-FY-07-115
REQUEST FOR ROAD NAME
SADDLESORE LANE**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, There are three property owners on a private road located off Bradshaw Road (SR 629) who have petitioned the county to name this road Saddlesore Lane; and

WHEREAS, Saddlesore Lane complies with the County Street Name Policy.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia, that after duly considering said request, the Board hereby approves the use of the name Saddlesore Lane.

**R-FY-07-116
SUPERVISOR MARY BIGGS
VACO EDUCATION COMMITTEE AND
AUDIT OPERATIONAL COMMITTEE**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, Supervisor Mary W. Biggs has been invited to serve on the Virginia Association of Counties (VACo) Education Steering Committee and to serve as the Chair on the Audit Operational Committee for calendar year 2007.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia endorses Supervisor Biggs participation on the Education Steering Committee and as the Chair on the Audit Operational Committee.

BE IT FURTHER RESOLVED, The Board of Supervisors authorizes the County Administrator to reimburse Supervisor Biggs for expenses arising from attendance at committee meetings.

R-FY-07-117
ANNETTE S. PERKINS
VACO CONFERENCE PLANNING COMMITTEE
AND EDUCATION COMMITTEE

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, Supervisor Annette S. Perkins has been invited to serve on the Virginia Association of Counties (VACo) Conference Planning Committee and on the Education Committee for calendar year 2007.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia endorses Supervisor Perkins participation on the Conference Planning Committee and Education Committee.

BE IT FURTHER RESOLVED, The Board of Supervisors authorizes the County Administrator to reimburse Supervisor Perkins for expenses arising from attendance at committee meetings.

R-FY-07-118
DOUG MARRS
VACO TRANSPORTATION STEERING COMMITTEE

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, Supervisor Doug Marrs has been invited to serve on the Virginia Association of Counties (VACo) Transportation Steering Committee for calendar year 2007.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia endorses Supervisor Marrs participation on the Transportation Steering Committee.

BE IT FURTHER RESOLVED, The Board of Supervisors authorizes the County Administrator to reimburse Supervisor Marrs for expenses arising from attendance at committee meetings.

R-FY-07-119
MONTGOMERY REGIONAL
ECONOMIC DEVELOPMENT COMMISSION
(CHAMBER OF COMMERCE REPRESENTATIVE)

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Todd Murray** as **Montgomery County Chamber of Commerce** representative to the Montgomery Regional Economic Development Commission effective February 13, 2007 and expiring February 12, 2010.

R-FY-07-120
MONTGOMERY REGIONAL
ECONOMIC DEVELOPMENT COMMISSION
(TOWN OF CHRISTIANBURG REPRESENTATIVE)

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Ann H. Carter** as the **Town of Christiansburg** representative to the **Montgomery Regional Economic Development Commission** effective February 13, 2007 and expiring February 12, 2010.

R-FY-07-121
TRANSPORTATION SAFETY COMMISSION
STATE POLICE REPRESENTATIVE

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Walter W. Viohl, Jr.** as the **Virginia State Police** representative to the **Transportation Safety Commission** effective February 13, 2007 and expiring 2010.

R-FY-07-122
TRANSPORTATION SAFETY COMMISSION
VDOT REPRESENTATIVE

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **David Clarke** as the **Virginia Department of Transportation** representative to the **Transportation Safety Commission** effective February 13, 2007 and expiring February 12, 2010.

R-FY-07-123
TRANSPORTATION SAFETY COMMISSION
MPO REPRESENTATIVE

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Dan Brugh** as the **MPO** representative to the **Transportation Safety Commission** effective February 13, 2007 and expiring February 12, 2010.

R-FY-07-124
TRANSPORTATION SAFETY COMMISSION
DIVISION OF MOTOR VEHICLES REPRESENTATIVE

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Danny G. Dean** as the **Division of Motor Vehicles** representative to the **Transportation Safety Commission** effective February 13, 2007 and expiring 2010.

ORD- FY-07-22
AN ORDINANCE AMENDING THE ZONING
CLASSIFICATION OF APPROXIMATELY 1.0 ACRES
FROM AGRICULTURE (A-1) TO RESIDENTIAL (R-3)
MAZIE C. WIMMER

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice, and therefore the zoning classification of that certain tracts or parcels of land consisting of approximately 1.0 acres is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to Residential (R-3) with the following proffered conditions:

1. If a second lot is subdivided to the south of the existing house, then the side setback from the Miller property will be at least 20' rather than the required 10'.
2. No duplex units will be allowed.

This action was commenced upon the application of Mazie C. Wimmer (Agent: Carl Wimmer).

The property is located on the east side of Jones Street, approximately one hundred feet (100') north of South Franklin St at the Christiansburg Corporate limits and is identified as Tax Parcel No. 107- A 71 (Acct # 021090) in the Shawsville Magisterial District (District C). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Doug Marrs
Mary W. Biggs		
Annette S. Perkins		
James D. Politis		
Gary D. Creed		
Steve L. Spradlin		

R-FY-07-125
RESOLUTION GRANTING A SPECIAL USE PERMIT TO
MAZIE C. WIMMER (AGENT: CARL WIMMER) TO ALLOW THE
PLACEMENT OF A MANUFACTURED HOME AT
100 JONES STREET IN THE SHAWSVILLE MAGISTERIAL DISTRICT ON
TAX PARCEL NOS. 107- A 71 (ACCT # 021090).

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Mazie C. Wimmer (Agent: Carl Wimmer) request for a special use permit to allow the placement of a manufactured home is hereby approved.

The property is located on the east side of Jones Street, approximately one hundred feet (100') north of South Franklin St at the Christiansburg Corporate limits and is identified as Tax Parcel No. 107- A 71 (Acct # 021090) in the Shawsville Magisterial District (District C). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Doug Marrs
Annette S. Perkins		
James D. Politis		
John A. Muffo		
Gary D. Creed		
Steve L. Spradlin		

A-FY-07-83
METROPOLITAN PLANNING ORGANIZATION
TRANSFER FROM SPECIAL CONTINGENCIES

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:		
960	Special Contingencies	(\$8,500)
TO:		
910	MPO – Economic Development Agencies	\$8,500

Said resolution transfers money from Special Contingencies to the MPO to cover the County's match for the Smart Way Bus Service for FY 2007.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Doug Marrs
Mary W. Biggs		
Annette S. Perkins		
James D. Politis		
John A. Muffo		
Steve L. Spradlin		

R-FY-07-126
CITIZENS TELEPHONE COOPERATIVE
REQUEST FOR A PUBLIC UTILITY EASEMENT
ACROSS THE HUCKLEBERRY TRAIL

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

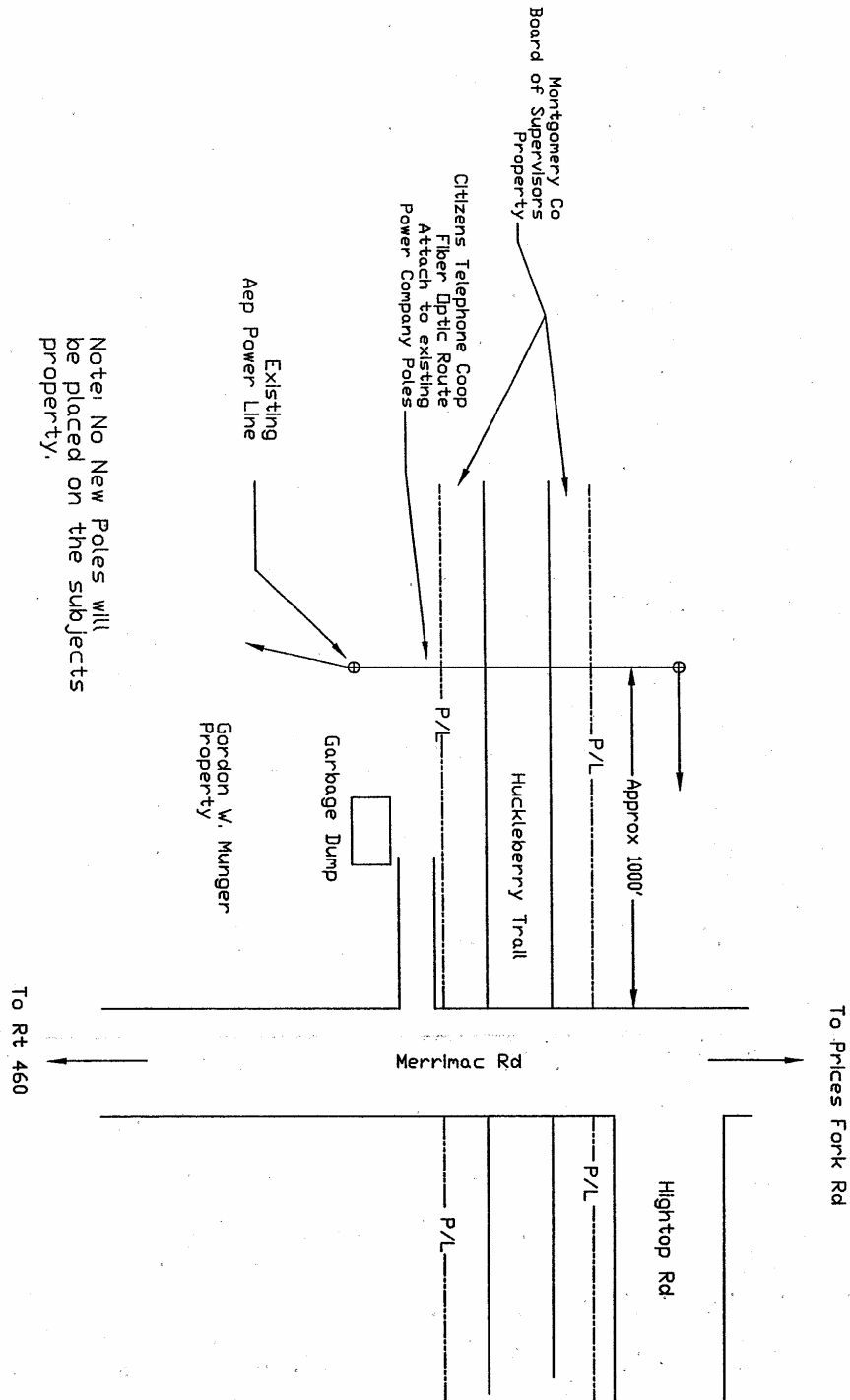
BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board hereby grants a public utility easement to Citizens Telephone Cooperative to cross a portion of the property belonging to Montgomery County referred to as the Huckleberry Trail, located near the Merrimac Consolidated Collection and Recycling Site, as shown on the attached plat, in order to locate a fiber optic network on the existing American Electric Power Company's power lines, located above the trail.

BE IT FURTHER RESOLVED, That the Board of Supervisors hereby authorizes Steve Spradlin, Chair, to sign the easement on behalf of the County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	Doug Marrs
James D. Politis		
John A. Muffo		
Gary D. Creed		
Mary W. Biggs		
Steve L. Spradlin		

Citizens Telephone Cooperative – Plat Shown Below:



R-FY-07-127
JOINT RESOLUTION PROVIDING FOR THE IMPLEMENTATION OF
THE COMPREHENSIVE COMMUNITY CORRECTIONS ACT
FOR LOCAL RESPONSIBLE OFFENDERS, THE PRETRIAL SERVICES ACT
AND THE ESTABLISHMENT OF THE NEW RIVER COMMUNITY
CRIMINAL JUSTICE BOARD (NRCCJB)

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

WHEREAS, The Virginia General Assembly has adopted legislation entitled the Comprehensive Community Corrections Act for Local Responsible Offenders, Article 9 (9.1-173 et. seq.) of the Code of Virginia, both of which were effective July 1, 1995; and

WHEREAS, 9.1-174 and 19.2-152.2 of the Code of Virginia requires counties and cities approved for a jail project pursuant to 53.1-82.1 to participate and establish services in accordance with both Acts; and

WHEREAS, 9.1-178 and 19.2-152.5 of the Code of Virginia requires that each county and city establishing and operating community-based probation and pretrial services establish a Community Criminal Justice Board, and in the case of multi-jurisdictional efforts, that each jurisdiction mutually agree upon the number of appointments to said board.

BE IT THEREFORE RESOLVED, That the Board of Supervisors of Montgomery County, Virginia jointly agrees with the Counties of Bland, Carroll, Floyd, Giles, Grayson, Pulaski, Wythe and the Cities of Galax and Radford to implement the services and programs required by the Comprehensive Community Corrections Act for Local Responsible Offenders and the Pretrial Services Act with Pulaski County, pursuant to 9.1-183, acting as the administrator and fiscal agent on behalf of the participating localities.

BE IT FURTHER RESOLVED, That Montgomery County jointly establishes the New River Community Criminal Justice Board that said board shall fulfill its responsibilities pursuant to 9.1-180, and shall be composed of the following members pursuant to 9.1-178 of the Code of Virginia.

- One representative of the governing bodies of each participating jurisdiction.
- A circuit court judge representing the 27th Judicial Circuit as agreed upon by the judges of said circuit.
- A judge of general district court, representing the 27th Judicial District as agreed upon by said judges of the district.
- A judge of the juvenile and domestic relations district court representing the 27th Judicial District as agreed upon by the judges of the district.
- The Chief Magistrate.
- A Commonwealth's Attorney representing all the Commonwealth's Attorneys of the participating jurisdictions.
- An attorney experienced in the defense of criminal matters who is a current member of the Virginia State Bar, and a public defender each representing the participating localities where applicable.
- The administrator of the New River Valley Regional Jail.
- The Sheriff of Montgomery County.
- A Chief of Police and/or a Sheriff in a jurisdiction not served by a police department to represent all law enforcement agencies of the participating jurisdictions.
- A Community Services Board Administrator representing all agencies providing such services to participating jurisdictions.
- A representative of a local adult education representing all agencies providing such services to participating jurisdictions.

BE IT FURTHER RESOLVED, That this resolution supersedes and replaces all prior resolutions approved by the locality relating to the establishment of required services and the formation of the New River Community Criminal Justice Board.

BE IT FURTHER RESOLVED, That Montgomery County appoints **Buddy J. Smith**, Lieutenant, Montgomery County Jail, as its governing body representative to begin February 13, 2007 and extend for a period to February 12, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
James D. Politis	None	Doug Marrs
John A. Muffo		
Gary D. Creed		
Mary W. Biggs		
Annette S. Perkins		
Steve L. Spradlin		

A-FY-07-84
COUNTY CAPITAL PROJECTS FUND
APPROPRIATION OF CAPITAL FUNDS
ELLISTON FIRE STATION

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund is granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

General Fund		
02-451209	Transfer to County Capital Projects Fund	\$20,000

The source of funds for the foregoing appropriation is as follows:

02-451203	Undesignated General Fund Balance	\$20,000
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BE IT FURTHER RESOLVED, That the County Capital Projects Fund is granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

County Capital Projects Fund		
123303EL	Elliston Fire Station	\$20,000

The source of funds for the foregoing appropriation is as follows:

12-451100	Transfer from General Fund	\$20,000
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Said resolution transfers \$20,000 from General Fund balance to be transferred to the County Capital Projects Fund for project management of the Elliston Fire Department.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Doug Marrs
Mary W. Biggs		
Annette S. Perkins		
James D. Politis		
Gary D. Creed		
Steve L. Spradlin		

INTO WORK SESSION

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussion the following:

1. FY 2007-2008 Proposed Budget
 - a. Montgomery-Floyd Regional Library

2. Citizens' request to make presentations to the Board

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Doug Marrs
Mary W. Biggs		
Annette S. Perkins		
James D. Politis		
John A. Muffo		
Steve L. Spradlin		

FY 07/08 Proposed Budget – Montgomery-Floyd Regional Library

Paula Alston, Director of MFRL, presented the Library's proposed budget for FY 07/08 to the Board. Ms. Alston stated the Library is presenting a needs based budget and is requesting increases in areas most needed. They are requesting to reclassify one computer technician from part-time to full-time; reclassify the Library Assistant position to Library Specialist and increase the number of hours worked from 10 to 20; and request additional funding of \$100,000 for new books and materials. Ms. Alston stressed the importance for additional funding for new material, as books are their business.

Ms. Alston thanked the Board for their past and continued support for the future.

Citizens' Request to make Presentations to the Board

At their January 22, 2007 meeting, the Board directed staff to review requests made by citizens and groups to make presentations to the Board. The Assistant County Administrator reported that staff surveyed other localities for their policy or guidelines regarding this issue.

At present, the Board of Supervisors includes two sections that have been used when individuals or groups have requested time to present information to the Board, excluding public hearings. Rule 16 of the Board of Supervisors' Rules of Order states that, "Individual speakers will be limited to 5 minutes to address the Board during the public address and public hearing portions of the meeting." Rule 17 states, "Staff and Delegation presentations will not exceed 20 minutes unless prior approval is obtained from the Administrator".

In researching this issue, staff was unable to locate previously established definitions and guidelines for the Delegation and Public Address sections of the agenda. In practice, staff generally places individuals (representing a community group and/or a state or local agency) requesting time to present to the elected body under the Delegation section of the agenda. In addition, if the Board requests individuals to appear before them who have specific information to present, these individuals are also placed under the Delegation section.

In contacting other localities to determine how they address individuals or groups requesting to appear before their respective elected governing body, the majority of the 12 respondents indicated they only allow citizens or groups to address their elected bodies during public comment section of the agenda. One locality responded they allow citizen groups to address their Council for 15 minutes but may not address them on any one subject more frequently than twice in a six-month period. Another locality responded they allow citizen groups 10 minutes. Also, according to information available from the Fairfax County web site, they define specific groups and assign different timeframes as follows:

"If you are speaking on your own behalf or speaking for your neighborhood or civic association, you are given three minutes to speak; if you are speaking for an organization whose membership represents an entire supervisory district, you have five minutes; and if you are speaking for a Board recognized countywide organization, you have ten minutes."

The Assistant County Administrator stated over the past several months, staff has been working on a project to revise the agenda format and process. A central part of any revised process is a set of guidelines as to how the Board would like to organize their meetings, particularly how to

organize comments from citizen groups, and state and local agencies, and other non-staff presentations.

If the Board desires, staff will continue to develop proposed revisions to the agenda format and include recommended guidelines for citizen groups. Staff will continue to collect additional information on practices from other jurisdictions on their processes for handling citizen groups, state and local agencies, and other non-staff presentations and report this information to the Board.

The Board discussed and commented on the information provided. Board members indicated that if there is a change there should be a gradual change. The Board has been pretty flexible and responsive to citizens and strict when need be. Who will decide who can or who cannot address the Board? Will this be decided as a group or left up to the Chair?

The Board directed staff to continue collecting data and include in the development of the revision to the agenda format.

OUT OF WORK SESSION

On a motion by James D. Politis, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Doug Marrs
Annette S. Perkins		
James D. Politis		
Gary D. Creed		
John A. Muffo		
Steve L. Spradlin		

COUNTY ATTORNEY'S REPORT

Sale of Bethel Elementary School Site

The County Attorney reported on February 1, 2007 they closed on the sale of Bethel Elementary School site for \$950,000.

BOARD MEMBERS' REPORTS

Supervisor Muffo attended a grand opening for Lakeview Blue Ridge in Blacksburg, a new rehabilitation home for brain injured people. He is encouraged that facilities of this nature are in the County.

Supervisor Creed asked the Board of Supervisors to support placing the proposed Norfolk Southern Intermodal Facility in Roanoke City.

Supervisor Biggs asked if Roanoke City Council has gone on record supporting the facility in their locality?

Supervisor Creed made a motion to support the placement of the proposed NS Intermodal Facility in Roanoke City. The motion died due to the lack of a second.

Supervisor Creed asked if the Board would support asking the Virginia Association of Counties (VACO) to support Delegate Dave Nutter's legislation that a resolution of approval from localities within which a project is located must be received before funds may be expended on the project from the Rail Enhancement Fund.

R-FY-07-128
RESOLUTION REQUESTING
VIRGINIA ASSOCIATION OF COUNTIES TO SUPPORT
DELEGATE DAVE NUTTER’S HOUSE BILL # 2233

On a motion by Gary D. Creed, seconded by James D. Politis and carried unanimously,

WHEREAS, Delegate Nutter sponsored House Bill 2233 in the 2007 General Assembly session which provided that a resolution of approval from localities within which a project is located must be received before funds may be expended on the project from the Rail Enhancement Fund; and

WHEREAS, House Bill 2233 advanced to the House Appropriations Committee but remains in Committee; and

WHEREAS, The Board of Supervisors of the County of Montgomery supports House Bill 2233 and desires for the Virginia Association of Counties to support the passage of House Bill 2233.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby requests the Virginia Association of Counties to support the passage of House Bill 2233 or similar legislation that requires local governing body approval for projects in their locality funded through the Rail Enhancement Fund.

BE IT FURTHER RESOLVED, That should House Bill 2233 or similar legislation not be approved by the 2007 General Assembly, the Board of Supervisors hereby requests the Virginia Association of Counties to include this legislation as a priority for the 2008 General Assembly Session.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Doug Marrs
James D. Politis		
Gary D. Creed		
Mary W. Biggs		
Annette S. Perkins		
Steve L. Spradlin		

BOARD REPORTS’ CONTINUED

Supervisor Creed asked the County Attorney to review the proposed ordinance, submitted by the Citizens for the Preservation of our Country, which request the Board of Supervisors to adopt the ordinance which would ban private corporations from using eminent domain to take private properties.

Supervisor Spradlin attended the ribbon cutting for the Habitat for Humanity Restore Warehouse. The warehouse accepts donated goods, new and used building items, for resale to help with the Habitat for Humanity organization.

Western Virginia Regional Jail’s groundbreaking is scheduled for February 20, 2007. The ribbon cutting and grand opening for Luma in the County’s Technology Manufacturing Building in Blacksburg Industrial Park is February 22, 2007.

Proposed NS Intermodal Facility Supervisor Spradlin directed staff to contact the other localities that have been selected as a potential site for the proposed NS Intermodal Facility to determine if they support this facility in their community.

ADJOURNMENT

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously, the Board adjourned to Monday, February 26, 2007 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Doug Marrs
James D. Politis		
Annette S. Perkins		
Mary W. Biggs		
Gary D. Creed		
Steve L. Spradlin		

The meeting adjourned at 8:50 p.m.

APPROVED:_____	ATTEST:_____
Steve L. Spradlin	B. Clayton Goodman, III
Chair	County Administrator